

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSHUA ALLAN JACKSON,

Plaintiff,

V.

OFFICERS1-10 et al.,

Defendants.

CASE NO. C13-5070 RBL-JRC

REPORT AND RECOMMENDATION

NOTED FOR:

MAY 10, 2013

The District Court has referred this 42 U.S.C. §1983 civil rights action to the undersigned Magistrate Judge. The Court's authority for the referral is 28 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate Judge Rules MJR 1, MJR 3, and MJR 4.

The Court recommends that the action be dismissed with prejudice and that in forma pauperis status be revoked for the purpose of appeal. Plaintiff has failed to comply with a Court order and failed to prosecute this action.

On January 31, 2013, plaintiff commenced this action by filing a motion/application to proceed in forma pauperis and a proposed complaint (ECF No. 1). After plaintiff corrected defects in the application the Court granted plaintiff in forma pauperis status (ECF No. 3-6). On February 20, 2013, the Court filed an order directing plaintiff to file an amended complaint (ECF No. 9). The Court explained that the original complaint could not be served because plaintiff named only John or Jane Does. *Id.* The Court ordered plaintiff to file an amended complaint

1 naming proper defendants and the Court gave plaintiff until March 22, 2013 to comply with that
2 order (ECF No. 9). The Court specifically stated:

The amended complaint will act as a complete substitute for the original and not as a supplement. Failure to file the amended complaint on or before March 22, 2013, will result in a Report and Recommendation that this action be dismissed for failure to obey a Court order and failure to prosecute the action.

(ECF No. 9). Plaintiff has failed to comply with the Court's order. Fed. R. Civ. P. 41(b) provides for involuntary dismissal if plaintiff fails to prosecute or to comply with these rules or a court order. The dismissal counts as an adjudication on the merits unless the Court provides otherwise.

Plaintiff acknowledges that he received the Court's order and reiterates the main points of the order in a "response." (ECF No. 10). Plaintiff also states that he has been able to obtain "a few of the officers [sic] names." (ECF No. 11, page one). Plaintiff does not show good cause for not complying with the Court's order to amend his complaint.

The Court recommends that this action be dismissed for failure to prosecute and failure to comply with a Court order. The Court also recommends that plaintiff's in forma pauperis status be revoked for the purpose of appeal. Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), plaintiff shall have fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of de novo review by the district judge. *See* 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set the matter for consideration on May 10, 2013, as noted in the caption.

Dated this 15th day of April, 2013.


J. Richard Creatura
United States Magistrate Judge